



STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

May 10, 2010

The Honorable Ken Bennett
Secretary of State
1700 West Washington
Phoenix, Arizona 85007

RE: Senate Bill 1422 (petitions; post office box addresses)

Dear Secretary Bennett:

Today I signed Senate Bill 1422, which permits certain voters signing candidate nomination petitions to use post office addresses rather than actual residence addresses.

Arizona law has long required that voters must have a residence to register to vote and reside in a district in order to sign nomination petitions for candidates seeking office from the district. The Arizona Supreme Court recently held in *Jenkins v. Hale*, that a voter's signature on a nominating petition is not invalid as a matter of law if the voter provides a post office box address in the address portion of the signature line. However, in the event of a challenge, the burden is shifted to the candidate to show the voter resided in the district and was therefore qualified to sign the petition.

Senate Bill 1422 allows a voter to sign a nomination petition using a post office address only if the voter has no residence address assigned by an official governmental entity or the voter's address is protected under A.R.S. § 16-153. This law will greatly benefit many Native American voters, as well as law enforcement officials whose addresses are sealed for security purposes.

Sincerely,

A handwritten signature in black ink that reads "Janice K. Brewer".
Janice K. Brewer
Governor

JKB/jk

cc: The Honorable Robert Burns
The Honorable Kirk Adams
The Honorable Albert Hale

House Engrossed Senate Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 284

SENATE BILL 1422

AN ACT

AMENDING SECTIONS 16-314, 16-315, 16-321 AND 16-351, ARIZONA REVISED
STATUTES; RELATING TO PETITIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-314, Arizona Revised Statutes, is amended to
3 read:

4 16-314. Filing and form of nomination petitions; definition

5 A. Any person desiring to become a candidate at any election and to
6 have the person's name printed on the official ballot shall FILE, within the
7 same time and with the same officer as provided by section 16-311, file a
8 nomination petition in addition to the nomination paper required.

9 B. ~~As used in~~ FOR THE PURPOSES OF this title, "nomination petition"
10 means the form or forms used for obtaining the required number of signatures
11 of qualified electors, which is circulated by or on behalf of the person
12 wishing to become a candidate for a political office.

13 C. Nomination petitions shall be captioned "partisan nomination
14 petition" or "nonpartisan nomination petition", followed by the language of
15 the petition in substantially the following form:

16 Partisan Nomination Petition

17 "I, the undersigned, a qualified elector of the county of
18 _____, state of Arizona, and of (here name political
19 division or district from which the nomination is sought) and a
20 member of the _____ party or a person who is
21 registered as no party preference or independent as the party
22 preference or who is registered with a political party that is
23 not qualified for representation on the ballot, hereby nominate
24 _____ who resides at _____ in the county of
25 _____ for the party nomination for the office of
26 _____ to be voted at the primary election to be held
27 _____ as representing the principles of such party,
28 and I hereby declare that I am qualified to vote for this office
29 and that I have not signed, and will not sign, any nomination
30 petition for more persons than the number of candidates
31 necessary to fill such office at the next ensuing election. I
32 FURTHER DECLARE THAT IF I CHOOSE TO USE A POST OFFICE BOX
33 ADDRESS ON THIS PETITION, MY RESIDENCE ADDRESS HAS NOT CHANGED
34 SINCE I LAST REPORTED IT TO THE COUNTY RECORDER FOR PURPOSES OF
35 UPDATING MY VOTER REGISTRATION FILE."

36 Nonpartisan Nomination Petition

37 "I, the undersigned, a qualified elector of the county of
38 _____, state of Arizona, and of (here name political
39 division or district from which the nomination is sought) hereby
40 nominate _____ who resides at _____ in the
41 county of _____ for the office of _____ to be
42 voted at the _____ election to be held
43 _____, and hereby declare that I am qualified to vote
44 for this office and that I have not signed and will not sign any
45 nomination petitions for more persons than the number of

1 candidates necessary to fill such office at the next ensuing
2 election. I FURTHER DECLARE THAT IF I CHOOSE TO USE A POST
3 OFFICE BOX ADDRESS ON THIS PETITION, MY RESIDENCE ADDRESS HAS
4 NOT CHANGED SINCE I LAST REPORTED IT TO THE COUNTY RECORDER FOR
5 PURPOSES OF UPDATING MY VOTER REGISTRATION FILE."

6 D. The nomination petition of a person seeking to fill an unexpired
7 vacant term for any public office shall designate the expiration date of the
8 term following the name of the office being sought.

9 Sec. 2. Section 16-315, Arizona Revised Statutes, is amended to read:
10 16-315. Form of petitions

11 A. The nomination petitions shall be in substantially the following
12 form:

13 1. Petitions shall be on paper fourteen inches wide and eight and
14 one-half inches long.

15 2. Petitions shall be headed by a caption stating the purpose of the
16 petition, followed by the body of the petition stating the intent of the
17 petitioners.

18 3. There shall be fifteen lines spaced three-eighths of an inch apart
19 and consecutively numbered one through fifteen.

20 4. The signature portion of the petition shall be divided into columns
21 headed by the titles: signature; printed name; actual residence address, or
22 description of place of residence OR ARIZONA POST OFFICE BOX ADDRESS, city,
23 OR town or ~~post office~~; and date of signing.

24 5. A photograph of the candidate may appear on the nomination
25 petition.

26 B. The following shall appear on the petition:

27 Instructions for Circulators

28 1. All petitions shall be signed by circulator.

29 2. Circulator must be qualified to register to vote in this state.

30 3. Circulator's name shall be typed or printed under such person's
31 signature.

32 4. Circulator's actual residence address or, if no street address, a
33 description of residence location shall be included on the petition.

34 C. The secretary of state shall prepare sample nomination petition
35 forms and distribute such forms to all election officers.

36 Sec. 3. Section 16-321, Arizona Revised Statutes, is amended to read:
37 16-321. Signing and certification of nomination petition

38 A. Each signer of a nomination petition shall sign only one petition
39 for the same office unless more than one candidate is to be elected to such
40 office, and in that case not more than the number of nomination petitions
41 equal to the number of candidates to be elected to the office. A signature
42 shall not be counted on a nomination petition unless the signature is on a
43 sheet bearing the form prescribed by section 16-314.

1 B. For the purposes of petitions filed pursuant to sections 16-312,
2 16-313, 16-314 and 16-341, each signer of a nomination petition shall be a
3 voter who at the time of signing is a registered voter in the electoral
4 district of the office the candidate is seeking.

5 C. If an elector signs more nomination petitions than permitted by
6 subsection A of this section, the earlier signatures of the elector are
7 deemed valid, as determined by the date of the signature as shown on the
8 petitions. If the signatures by the elector are dated on the same day, all
9 signatures by that elector on that day are deemed invalid. Any signature by
10 that elector on a nomination petition on or after the date of the last
11 otherwise valid signature is deemed invalid and shall not be counted.

12 D. Except as prescribed in section 16-341 for circulators of petitions
13 for certain candidates for the office of presidential elector, the person
14 before whom the signatures were written on the signature sheet shall be
15 qualified to register to vote in this state pursuant to section 16-101 and
16 shall verify that each of the names on the petition was signed in his
17 presence on the date indicated, and that in his belief each signer was a
18 qualified elector who resides at the address given as the signer's residence
19 on the date indicated and, if for a partisan election, that each signer is a
20 member of the party from which the candidate is seeking nomination, or the
21 signer is a member of a political party that is not entitled to continued
22 representation on the ballot pursuant to section 16-804 or the signer is
23 registered as independent or no party preferred. The way the name appears on
24 the petition shall be the name used in determining the validity of the name
25 for any legal purpose pursuant to the election laws of this state. Signature
26 and handwriting comparisons may be made.

27 E. A PERSON WHO SIGNS A NOMINATING PETITION MUST USE THAT PERSON'S
28 ACTUAL RESIDENCE ADDRESS UNLESS THERE IS NO ACTUAL RESIDENCE ADDRESS ASSIGNED
29 BY AN OFFICIAL GOVERNMENTAL ENTITY OR THE PERSON'S ACTUAL RESIDENCE IS
30 PROTECTED PURSUANT TO SECTION 16-153. THE SIGNATURE OF A PERSON WHO SIGNS A
31 NOMINATING PETITION AND WHO USES ONLY A DESCRIPTION OF THE PLACE OF RESIDENCE
32 OR AN ARIZONA POST OFFICE BOX ADDRESS IS VALID IF THE PERSON IS OTHERWISE
33 PROPERLY REGISTERED TO VOTE, HAS NOT MOVED SINCE REGISTERING TO VOTE AND IS
34 ELIGIBLE TO SIGN THE NOMINATING PETITION.

35 Sec. 4. Section 16-351, Arizona Revised Statutes, is amended to read:
36 16-351. Limitations on appeals of validity of nomination
37 petitions; disqualification of candidate

38 A. Any elector filing any court action challenging the nomination of a
39 candidate as provided for in this chapter shall do so no later than 5:00 p.m.
40 of the tenth day, excluding Saturday, Sunday and other legal holidays, after
41 the last day for filing nomination papers and petitions. The elector shall
42 specify in the action the petition number, line number and basis for the
43 challenge for each signature being challenged. Failure to specify this
44 information shall result in the dismissal of the court action. Within ten
45 days after the filing of the action, the superior court shall hear and render

1 a decision on the matter. Such decision shall be appealable only to the
2 supreme court, and notice of appeal shall be filed within five days after the
3 decision of the superior court in the action. The supreme court shall hear
4 and render a decision on the appeal promptly.

5 B. Any elector may challenge a candidate for any reason relating to
6 qualifications for the office sought as prescribed by law, including age,
7 residency or professional requirements, if applicable.

8 C. In any action challenging a nomination petition, the following
9 persons are indispensable parties to the action and shall be named and served
10 as defendants:

11 1. The candidate whose petition is the subject of the challenge.

12 2. The officer with whom the petitions are required to be filed.

13 3. The board of supervisors and the recorder of each county or the
14 clerk of each city or town who are IS responsible for preparing the ballots
15 that contain the challenged candidate's name.

16 D. For the purposes of an action challenging nomination petitions, the
17 board of supervisors and the recorder of each county or the clerk of each
18 city or town responsible for preparing the ballots that contain the
19 challenged candidate's name and each person filing a nomination petition
20 under this chapter appoints the officer with whom the candidate files the
21 nomination paper and petitions as the person's agent to receive service of
22 process. Process in an action challenging a nomination petition shall be
23 served immediately after the action is filed and in no event more than
24 twenty-four hours after filing the action, excluding Saturdays, Sundays and
25 other legal holidays. Immediately upon ON receipt of process served upon ON
26 the officer as agent for a person filing a nomination petition, the officer
27 shall mail the process to the person and shall notify him THE PERSON by
28 telephone of the filing of the action.

29 E. Notwithstanding the system used pursuant to section 16-163,
30 subsection D, the most current version of the general county register at the
31 time of filing of a court action challenging a nomination petition shall
32 constitute the official record to be used to determine on a prima facie basis
33 by the challenger that the signer of a petition was not registered to vote at
34 the RESIDENCE address given, OR AT THE ADDRESS ON THE GENERAL COUNTY REGISTER
35 IF A MAILING ADDRESS WAS GIVEN, on the date of signing of the petition. This
36 subsection does not preclude the challenged candidate from introducing into
37 evidence a certified copy of the registration form of any signer of a
38 petition dated on or before the date of the signing of the petition if the
39 registration form is in the possession of the county recorder but has not yet
40 been filed in the general county register.

41 F. In addition to the procedures set forth in this section, all
42 petitions that have been submitted by a candidate who is found guilty of
43 petition forgery shall be disqualified and that candidate shall not be
44 eligible to seek election to a public office for a period of not less than
45 five years.

~~APPROVED BY THE GOVERNOR MAY 10, 2010.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2010.~~